Home Dept. File No. 210 (2).

1939

Collection No.

Mysore Residency

Bangalore.

Pros. / Serial Nos. 1—

(K)

Subject.

Remission of Sentence to Juvenile offender Nanjappa, Senior Certified School, Chingleput.

Previous References.

Later References.

S. 97.—(Green).

MFP—1663 S&P—(M-2971)—24-6-38—100,000.

NOTES AND PRECIS.

J.C

J.R 115 O.O. Nil

1

Returned with thanks

C... OF THE
HIGH COURT OF RESIDENT
HIGH COURT OF GAUHATI
Diary No. 4503
File No.

(E)

Pending appeal

that the sentence - kin each

was inappropriate. The facts

now an idle act of mischief

but no criminal tendency

beginning. Corrective

Certified School. The offender

sentence was shipping; or, if

that could not be imposed for

this offence (I see it looked

up to point) committed to the

custody of parents or the

mother sister.

But in our 14 months

this judgment was pronounced

2

as I do not think it is
both while of his Rijs
for the Sessions Court formally
to review the case. I
suggest practice reflects.

29.4.39

S.R.08.

&

U.O. No. 1580-C-39 dated 29-4-39.

ATCHI... 29 APR. 1939

(D)

Please see the remarks of the Additional Judge at para 4 of notes in the Court file relating to 'Judgments of subordinate Courts in the Station'. If the recommendation of the District Magistrate is accepted, the draft submitted is for approval. The Resident may under section 401 (1) Cr. Pr.Code order the boy's release without conditions or upon any conditions which he may accept. This seems to be a case in which no conditions need be imposed.

Under section 373 of the Cr.P.Code, the Sessions Judge has to send copies of his judgments to the District Magistrate. The intention is that he should scrutinise the judgments and report to the Provincial Govt. if he considers any ~~xxxxxx~~ judgment manifestly wrong. Submitted for orders whether the D.M. may be ~~xxx~~ requested to

~~promptly~~

scrutinise the judgments and take prompt action in such cases.

13.5.39.

SECY.

5 Order may be issued, & New D.T. may see file after issue

15/5/39.

Resident 6 Approved

S.N. (1) : Issue

The District Magistrate, C & M Station, Bangalore.

U.O.No. D.Dis 210(3)-39/Judl. dated the 25th May 1939.

27.5.39

1936-C-39.

OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE, BANGALORE. 27 MAY 1939 Diary No. 5408 File No.

The Secretary to the Resident in Mysore, Bangalore U.O. 1936-C-39 dt 27/5/39.

Dy.No. 5408

7 No action is now necessary. May be recorded.

30.5.39

31.5

(para 7)

Record

IN THE COURT OF SESSION AT THE CIVIL AND MILITARY STATION OF BANGALORE.

PRESENT:—P. MEDAPA, ESQ., B.A., B.L., Sessions Judge.

Sessions Case No. 2 of 1938.

King Emperor ... ... *Prosecutor.*
by Mr. B. Shankar Rao, Public Prosecutor.

Versus

Naga ... ... *Accused.*

Abstract of Charge:—Throwing a stone at a running train. Offence under Section 127 of the Railway Act.

Plea of the accused:—Not guilty.

Names of Assessors.		Opinion.
(1) Mr. R. Campbell (2) „ Rajagopal Chetty (3) „ Rathna Chetty (4) „ Visvanatha Mudaliar	... ...	Not guilty.

Finding of the Judge:—Guilty.

Sentence:—The accused is convicted but in lieu of imprisonment he is directed to be kept in a Senior Certified School under the Children's Act for a period of 2 years.

JUDGMENT.

The accused in this case has been committed by the District Munsiff and First Class Magistrate, Civil and Military Station, Bangalore, to take his trial before this Court for an offence under Section 127 of the Railway Act. The charge against him runs thus:—"That you, on or about the 2nd day of October 1937, at mile 47/1 in the Arsikere-Harihar Line, threw a stone at No. 3 Up Train which was in running and hit it knowing that you are likely to endanger the safety of the passengers and thereby committed an offence punishable under Section 127 of the Railway Act."

2. The accused pleaded "Not guilty" to the charge and claimed to be tried.

3. The story for the prosecution is briefly this. On the 2nd day of October 1937, at about 3-45 p.m. when the No. 3 Up Passenger Train was running through a cutting at mile 47/1 towards Holalkere Station from Ramagiri Station four shepherd boys threw some stones at the running train. The stone thrown by the accused hit the glass window of the break van in which P.W. 1 was seated. The glass broke and the pieces of glass hit the Under Guard of the train (P.W. 1) and injured him. The train was immediately stopped and the two constables who were travelling in the train got down from the train and gave chase to the boys and caught hold of the accused. The other three boys escaped. The accused was taken in the same train to Chickajajoor Station where the Under Guard (P.W. 1) gave a report to the Station Master. The Station Master sent a message to the Sub-Inspector of Police attached to the Railway at Arsikere. The Sub-Inspector of Police on getting the information went to the scene of occurrence and after necessary investigation charged the accused.

4. The prosecution examined three witnesses and got Exhibits A to C marked. The accused did not examine any witness or adduce any evidence.

5. P.W. 1 is an Under Guard in the M. & S. M. Railway. He states that on 2-10-1937 when the Passenger Train was running through a cutting at mile 47/1 on the Arsikere-Harihar Line he saw 4 boys standing by the side of the railway line throwing stones at the train. The stone thrown by the accused hit the glass pane of the compartment in which he was seated and broke it into pieces and some broken pieces of glass hit him whereupon the train was stopped and the Policemen who were in the train gave chase to the boys and caught hold of the accused while the others escaped. The accused was taken to Chickajajoor Station and the matter was reported to the Station Master. The railway doctor examined him and gave him a certificate (Exhibit C).

6. P.W. 2 is a Police Constable at Arsikere Railway Station. He states that on the day of the occurrence he was travelling in the train along with another constable (P.C. No. 125). The train was stopped near mile No. 47/1 when he and another constable got down from the train. They were informed by P.W. 1 that the boys that were running threw stones at the train. Thereupon they gave chase to the boys and caught hold of the accused whom they took to Chickajajoor Station and there handed him over to P.C. No. 73. He further states that the train was running through a cutting and that no cattle were to be seen at the time of the occurrence on the railway line.

7. P.W. 3 is a Railway contractor. He says that he was travelling in the train on the day of the occurrence from Birur to Davangere. He adds that after the train left Ramagiri Station he heard the noise of a stone striking the compartment next to his in which the Under Guard (P.W. 1) was seated and immediately thereafter the train was stopped. He peeped out and saw the accused running and P.W. 2 and another constable chasing him. He says that P.W. 2 and the other constable caught the accused and took him to the train. He also says that there was no cattle on the railway line at that time.

8. The assessors were unanimous in their opinion and declared the accused "Not guilty

9. The accused in his statement admits that he threw a stone which hit the running train. His explanation is that he threw the stone to drive away the cattle that were on the railway line but that the stone accidentally hit the train. The accused did not adduce any evidence to show that there were any cattle on the railway line at the time. The witnesses for the prosecution have stated that there were no cattle on the railway line. The explanation of the accused is obviously an after-thought for he could not have tried to drive away the cattle that were not there. I have no doubt that the accused threw the stone on the running train. He is therefore guilty of the offence he is charged with.

10. The accused is a mere boy about 12 years of age and perhaps threw the stone out of sheer mischief without realising the seriousness or the consequences of his act. The offence is no doubt a very serious one but I think that a period of probation in a Senior School under the Children's Act will be much more appropriate than a sentence of rigorous imprisonment. I therefore while convicting the accused direct that in lieu of imprisonment he shall be kept in a Senior Certified School under the Children's Act for a period of two years.

Pronounced in open Court, this 17th day of February 1938.

P. MEDAPA,
Sessions Judge.

LIST OF WITNESSES EXAMINED.

For the prosecution.

1. Govindan. 2. Krishnajee Rao. 3. Abdul Latiff.

For the defence.—Nil.

LIST OF EXHIBITS MARKED.

For the prosecution.

Exhibits.

A. Complaint dated 2-10-1937 given by P.W. 1 to the Station Master, Chickajajoor Station.

B. Statement given by the accused before the lower Court.

C. Medical certificate granted by the Sub-Assistant Surgeon, Harihar, to P.W. 1.

For the defence.—Nil.

MATERIAL OBJECT EXHIBITED.

One packet of glass pieces.

P. MEDAPA,
Sessions Judge.

True Copy.

By Order,

District and Sessions Court,
C. & M. Station, Bangalore.

Registrar.

1705—11-4-1938—16—RPB.

Issued 22/5/39 AS.

Issue 18/5

CW1

4

PROCEEDINGS OF THE HON'BLE THE RESIDENT IN MYSORE, BANGALORE.

No.R.Dis.F.2/9(2)/39 Judl. Dated 22nd May 39

Read:-

(E) Judgment of the Sessions Judge, Civil and Military Station, Bangalore in Sessions Case No.2 of 1938 - King Emperor vs. Naga.

ORDER

In exercise of the powers conferred by section 401 of the Code of Criminal Procedure, 1898, as applied to the Civil and Military Station of Bangalore, the Hon'ble the Resident is pleased to remit the unexpired portion of the sentence ~~of imprisonment~~ awarded to Naga, (now in the Senior Certified School, Chingleput) x, by the Sessions Judge, Civil and Military Station, Bangalore, in Sessions Case No.2 of 1938 x, on his file.

A. J. Courtney

for Secretary to the Resident.

To

The District Magistrate, C. and M. Station, Bangalore.

The Headmaster, Senior Certified School, Chingleput. He is requested to arrange for the release of the boy ~~xxx~~ in consultation with the District Magistrate, C. and M. Station, Bangalore.

The Sessions Judge, C. and M. Station, Bangalore.

Naga, through the Headmaster, Senior Certified School, Chingleput.

(P) x

(E) x

AC 13.5.39.